

## REMARKS

### **The Amendments**

Claim 16 has been amended solely for clarity. The amendment does not constitute a narrowing amendment. No new matter is added by this amendment. Applicants respectfully request entry of this amendment and consideration of the below remarks. In light of these amendments and remarks, applicants respectfully request reconsideration of this application.

### **Rejection of Claim 15, 16, and 24 Under 35 U.S.C. §112, second paragraph**

Claims 15, 16, and 24 stand rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite. Applicants respectfully traverse the rejection.

The Office asserts that claims 15, 16, and 24 are unclear because claim 10(d) states that the product from the first reaction vessel is contacted with a nucleic acid amplification enzyme and then amplified in a second reaction vessel.

The Office asserts that in response to this rejection Applicants merely argued that “one of skill in the art, given the specification, would understand what is claimed.” This assertion is incorrect. Applicants clearly pointed out that claim 10(d) does not state the nucleic acid amplification enzyme is added to the first reaction vessel. This distinction is important. The claim recites that the product from the first reaction vessel is contacted with the nucleic acid amplification enzyme. Claim 10 does not require that the amplification take place in the first reaction vessel or that the nucleic acid amplification enzyme be added to the first reaction vessel. The Office has read into claim 10(d) that the nucleic acid enzyme is contacted with the product from the first reaction vessel in the first reaction vessel. Claim 10 does not require the contacting occur at any particular place, only that the contacting occurs. Contacting can occur at several different locations and dependant claims 15, 16, and 24 specify where the product from the first reaction vessel is contacted with the nucleic acid amplification enzyme.

Similarly, claim 10 does not specify that the nucleic acid amplification enzyme is present in any particular location prior to contacting of the product from the first reaction vessel because it can be present at several locations. Dependant claims 15, 16, and 24 specify where the nucleic acid amplification enzyme is located or contacts the product of the first reaction vessel. One of skill in the art, given the specification, would understand

what is claimed. The claims are clear and Applicants respectfully request withdrawal of the rejection.

**Rejection of Claims 10, 11-13, 14-16, 17, 19-36 Under the Judicially Created  
Doctrine of Obviousness-Type Double Patenting**

Claims 10, 11-13, 14-16, 17, 19-26 stand rejected under the judicially-created doctrine of obviousness-type double patenting over U.S. Patent No. 6,300,068 alone or in combination with another document.

While not in agreement with the Office Action on this rejection, Applicants, in the interest of efficient prosecution of this application, herewith agree to submit a terminal disclaimer over U.S. Pat. No. 6,300,068 upon indication of allowable claims.

Respectfully submitted,

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